

ABC, Inc.



November 2, 1998

BY HAND

Ms. Magalie Roman-Salas, Secretary
Federal Communications Commission
445 Twelfth St., SW
Washington, D.C. 20554

RE: FCC Form 303-S Application for License Renewal
File No.: BRCT980729KL
Call Sign: KGO-TV, San Francisco, CA

Dear Ms. Roman-Salas:

Pursuant to FCC Rule 1.65, I write on behalf of KGO Television, Inc. to update the response to Question 5 of the above-referenced application. I enclose an original and two copies of an updated Exhibit 1 to be substituted for the Exhibit 1 submitted with the original application. Please validate and return the "stamp and return" copy enclosed.

Respectfully,

A handwritten signature in dark ink, appearing to read "Griffith W. Foxley". The signature is fluid and cursive, with the first name "Griffith" being particularly prominent.

Griffith W. Foxley
Vice President

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Licensee: KGO Television, Inc.

EXHIBIT 1
LITIGATION

1) On September 30, 1998, the jury in Children's Broadcasting Corp. v. The Walt Disney Company and ABC Radio Networks, Civil Action No. 96-CV-907DDA/FLN, D. Minn., returned a Special Verdict which rejected most of the plaintiff's claims but found that ABC Radio had breached a contract with the plaintiff in two respects and that both ABC Radio and Disney had misappropriated a trade secret belonging to the plaintiff, viz., its list of advertisers sold and proposed in 1995 and 1996. Neither verdict, in our view, constitutes an "adverse finding" in a proceeding "brought under the provisions of any law relating to the following: any felony; mass media related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination." However, the phrase "unfair competition," which is sometimes used to denote the type of anticompetitive conduct at which antitrust laws are aimed, is also sometimes used more broadly to refer to a wide variety of business torts (including the misappropriation of trade secrets) that protect very different kinds of interests. While we think it clear that the Commission did not use the phrase "unfair competition" in this second, broader sense, we are reporting the Special Verdict in what may be an excess of caution.

The list of categories specified in the application form stems from the FCC's Character Policy, 102 F.C.C.2d 1179, on recon., 1 FCC Rcd 421 (1986), as modified, 5 FCC Rcd 3252 (1990), on recon., 6 FCC Rcd 3448 (1991), further recon., 7 FCC Rcd 6564 (1992). Since its 1986 order, the Commission has limited its inquiries into litigation for purposes of character evaluation, disclaiming a general interest in whether an applicant or licensee has violated any law whatever governing business conduct. On the other hand, "antitrust and anticompetitive activity in broadcasting have occupied a unique position in the Commission's regulatory scheme," and hence violations of "anticompetitive or antitrust laws" have "a potential bearing on an applicant's proclivity to comply with the Commission's rules and policies." 102 F.C.C.2d at 1201-02. It is clear therefore that the references to "unfair competition" in the Commission's application forms

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are intended to be limited to laws specifically designed to prohibit anti-competitive conduct of the kind encompassed by antitrust laws. Preventing the misappropriation of trade secrets has never occupied a "unique position in the Commission's regulatory scheme." It is clear that the Special Verdict does not constitute an adverse finding within the meaning of the Commission's disclosure requirement. In relevant part, the proceeding in which that verdict was returned was brought, not under the Minnesota Antitrust Law of 1971, Minn. Stat. §325D, 49-66, or any other law dealing with "antitrust or anticompetitive activity," but under the Minnesota Uniform Trade Secrets Act, Minn. Stat. §325C, 01-07.

On October 23, 1998, ABC Radio and Disney filed a motion for judgment as a matter of law or, in the alternative, for a new trial seeking to overturn the verdict. The court has announced that judgment will not be entered until this motion has been heard and resolved. However, even if the Special Verdict should ultimately be upheld (by that court or on appeal), it would not reflect adversely on the character of ABC or Disney.

2) The only other reportable adverse finding or adverse final action with respect to The Walt Disney Company, Disney Enterprises, Inc., ABC, Inc. or any of its broadcast subsidiaries (previously disclosed, among other places, in an Amendment to the Application for Consent to the Transfer of Control (FCC Form 315) for Various Broadcast Station Licenses from Capital Cities/ABC, Inc. to The Walt Disney Company dated November 17, 1995) is as follows:

Steve Davis v. KGO-TV and Capital Cities/ABC, Inc. (Superior Court of California, County of San Francisco, Case No. 946879). In this case, Steve Davis, a former KGO-TV news reporter, filed a complaint for age discrimination against KGO-TV and its parent company, Capital Cities/ABC, Inc., on October 27, 1992 in the Superior Court of California, County of San Francisco. The complaint alleged that the defendants terminated Davis from their employ because of his age. Defendants denied the allegations and maintained that Davis' employment was terminated due to inadequate job performance. In its September 16, 1994 verdict, the

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jury awarded damages in the amount of \$224,419.00 against KGO-TV, while finding the parent company, Capital Cities/ABC, Inc., not liable for age discrimination. On March 27, 1995, the court awarded Davis attorneys' fees in the amount of \$290,030.00 and expenses in the amount of \$49,691.38. Both parties appealed. In a decision filed on July 29, 1996 as supplemented on rehearing by a decision filed on October 31, 1996, the Court of Appeal of the State of California, First Appellate District, Division One affirmed the judgment of the trial court in all respects except that the court reversed the award of costs for the fees of expert witnesses. Davis recently appealed to the California Supreme Court on the expert witness fee issue, and on February 5, 1998, the Court found in KGO-TV's favor when it decided that "... fees of an expert not ordered by the court are not recoverable costs." On February 20, 1998, Davis petitioned the Court for rehearing on this issue and on March 25, 1998 the Court denied Davis' petition for rehearing. A subsequent motion by Davis for an order on attorneys' fees and costs was settled out of court.

There has been no material change in status with respect to any previously disclosed matter which is reportable pursuant to the Commission's modified requirements regarding the reporting of non-FCC misconduct. (Policy Regarding Character Qualifications in Broadcast Licensing, FCC 92-448 (released Oct. 9, 1992).)

ABC, Inc.



Griffith W. Foxley
Vice President
Corporate Legal Affairs & Publishing

January 29, 1999

BY HAND

Ms. Magalie Roman-Salas, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RE: FCC Form 303-S Application for License Renewal
File No.: BRCT980729KL
Call Sign: KGO-TV, San Francisco, CA

Dear Ms. Roman-Salas:

Pursuant to FCC Rule 1.65, I am writing on behalf of KGO Television, Inc. to amend the above-referenced application for the purpose of updating the response to Question 5 contained in Exhibit 1 to the application with respect to Children's Broadcasting Corp. v. The Walt Disney Company and ABC Radio Networks, Civil Action No. 96-CV-907DDA/FLN, D. Minn. On January 15, 1999, the court granted the ABC Radio Networks' and The Walt Disney Company's October 23, 1998 motion for judgment as a matter of law and dismissed the claims against them in their entirety.

Respectfully,

A handwritten signature in dark ink, appearing to read "Griffith W. Foxley", written over the typed name and title.

Griffith W. Foxley
Vice President